

### **REMARKS**

The office action of November 16, 2005 has been reviewed and these remarks are responsive thereto. By this amendment, claims 1, 9, 11, 16, 21, 23 have been amended, claims 2, 10, and 22, and 27 have been cancelled, and claims 28 and 29 have been added. Claims 1, 3-9, 11-21, 23-26, and 28-29 thus remain pending. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Rejections under 35 U.S.C. §112***

Claim 2 was rejected under 35 U.S.C. 112, second paragraph as being indefinite. While Applicants do not agree that the rejected claim language was indefinite, claim 2 has been cancelled for other reasons. Features of this claim have been incorporated into claim 1, and with this amendment, the term, “contemporaneously,” has been replaced by the phrase, “at approximately the same time,” to overcome any possible clarity objection. Applicants request the withdrawal of this rejection.

#### ***Rejections under 35 U.S.C. §102***

Claims 1, 3, 5, 8, 9, 13, 15, 16, 18, 20-22, 24, 26, and 27 stand rejected under 35 U.S.C. 102(a) and (e) as being anticipated by U.S. Patent No. 6,177,931 to Alexander et al. (*Alexander*). However, Applicants note that *Alexander* relates to very different subject matter than the present application. *Alexander* discloses an electronic program guide (EPG) for a television apparatus for allowing a user to check program listings, then to navigate to a program, record a program, or to put a program on a list of programs to watch, whereby the set-top box activates a function to remind the user when the program is being broadcast. *Alexander*, Abstract. Thus, *Alexander* does not disclose receiving and recording data relating to programs already stored on the apparatus.

With these differences in mind, Applicants have amended independent claims 1 and 16 to recite a receiver that receives, “at approximately the same time primary program data and associated secondary program data from a communication channel.” In contrast, in *Alexander*, the disclosed recorded data is advertisements and additional information related to the advertisements, which must be downloaded first for a user to be able to select it such that the

associated scheduled program can be downloaded at its scheduled time. Therefore, the advertisement and the primary program data are never downloaded “at approximately the same time,” as recited in claims 1 and 16. Thus, Applicants submit that amended claims 1 and 16, and their respective dependent claims, 3, 5, 8, 18, and 20 are not anticipated by *Alexander*.

With respect the independent claims 9 and 21, Applicants have amended these claims to recite software to, “identify and copy portions of the primary program that have been earmarked and store a copy of said earmarked data.” As the Office Action correctly points out, *Alexander* does not disclose this feature of running a software agent arranged to identify and copy portions of the primary program that have been earmarked and store a copy of said earmarked data as an associated secondary program data file. Office Action, page 8. However, the Office Action alleges that *Dunn* discloses these features, because “it is inherent that these trailers comprise portions of the primary programs they advertise and the server must therefore store a copy of these clips in their respective files.” Office Action, page 8. Applicants respectfully disagree. *Dunn* discloses a conventional VOD system in which programs, and trailers for the programs, can be downloaded from a server. *Dunn*, Abstract. However, *Dunn* does not disclose an active step on the client side of identifying and copying portions of the primary program that have been earmarked and storing a copy of the earmarked data. In *Dunn*, it is likely that the trailers have been generated elsewhere before being stored on the server. Thus, since neither *Alexander* or *Dunn* teaches or suggests running software to, “identify and copy portions of the primary program that have been earmarked and store a copy of said earmarked data,” amended claims 9 and 21 are not obvious over the cited references.

Additionally, claims 1, 9, 16, and 21 have been amended to recite a “client multimedia apparatus.” In contrast, the central server of *Dunn* stores the trailers and the programs, rather than the client. Moreover, independent claims 1, 9, 16, and 21 have been amended to emphasize that the user interface for selecting the program data files is provided subsequent to the storage of the primary program data and its associated secondary program data being complete. Thus, it is clear that the receiving and storing processes are separate to the selection and displaying processes and that the selection of the secondary program data is performed subsequent to both the primary and the secondary program data having been recorded. This is in contrast to

*Alexander*, which allows a user to select the associated program data, the advertisements, before the primary program data have been downloaded or generated.

***Rejections under 35 U.S.C. §103***

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Alexander* in view of U.S. Pat. Pub. No. 2001/0013124 to Kitsukawa et al. (*Kitsukawa*). Claims 4, 7, 12, 14, 19, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Alexander*. Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Alexander* in view of U.S. Patent No. 5,945,987 to Dunn, et al. (*Dunn*). Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Alexander* in view of *Dunn* and further in view of U.S. Patent No. 5,892,536 to Logan, et al. (*Logan*). Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Alexander* in view *Logan*.

Based on their respective dependence from independent claims 1, 9, 16, and 21, and since *Kitsukawa* and *Logan* do not address the above-described shortcomings regarding *Alexander* and *Dunn*, claims 4, 7, 11, 12, 14, 19, 23, and 25 are not obvious over the art of record.

***New Claims***

Applicant has added new claims 28 and 29, supported by the specification as filed. No new matter has been added. The new claims are allowable at least based on the recitation of similar features in independent claims 1, 9, 16, and 21, and because the art of reference does not describe receiving “at approximately the time primary program data and associated secondary program data,” or a software application to “identify and copy earmarked portions of the stored primary program data and store a copy of the earmarked portions as associated secondary program data,” as recited in claims 28 and 29, respectively.

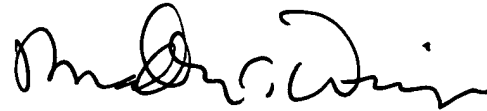
**Conclusion**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

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